

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

NDN Drywall, Inc.,

Civil No. 04-CV-4706 (DSD/SRN)

Plaintiff,

v.

ORDER

Custom Drywall, Inc.,

Defendant

William E. Dornbos, Esq., on behalf of Plaintiff

R. Daniel Rasmus, Esq., on behalf of Defendant

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated May 4, 2005. No objections have been filed to that Report and Recommendation in the time period permitted.

Based on the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. Defendant's Motion to Dismiss (Doc. No. 6) is **DENIED, IN PART, and GRANTED, IN PART.**

Dated: May 24, 2005

s/David S. Doty
David S. Doty, Judge
United States District Court